

Message Text

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S E C R E T MOSCOW 14186

NODIS

CHEROKEE

FROM ROBINSON

E.O. 11652 GDS

TAGS: ETRD, EEWT, UR, US

SUBJ: GRAIN/OIL NEGOTIATIONS

REF: STATE 237177

1. SUMMARY: WE ARE CONTINUING INTENSIVE EFFORTS TO ACHIEVE AGREEMENT ON GRAIN AND OIL ON TERMS SET FORTH IN REFTEL. OUR MOST SERIOUS ISSUE

REMAINS THE SOVIETS' DEMAND FOR BALANCE IN THE ESCAPE CLAUSE. WE BELIEVE THAT WE MAY HAVE A SOLUTION TO THIS PROBLEM WHICH WOULD ALLOW US TO BRING THESE NEGOTIATIONS TO A SUCCESSFUL CONCLUSION. WE URGENTLY REQUEST YOUR SUPPORT IN OBTAINING AUTHORITY TO PROCEED ON BASIS PROPOSED HEREIN.

END SUMMARY.

2. WE HAVE BEEN SEEKING A SOLUTION TO THE ESCAPE CLAUSE PROBLEM WHICH WOULD ELIMINATE THE NEED FOR A BALANCED RIGHT FOR THE SOVIETS TO REDUCE THEIR SIX MILLION TON MINIMUM COMMITMENT WHEN THEY FACE CROP SURPLUS. WE HAVE ALSO SOUGHT A SOLUTION WHICH WOULD ELIMINATE THE NEED FOR SIDE LETTERS FROM BOTH SIDES, WHICH COULD BE A SOURCE OF CRITICISM IN FUTURE CONGRESSIONAL CONSIDERATION OF THIS AGREEMENT.

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3. IT IS EXTREMELY UNLIKELY THAT THE USG WOULD EVER IMPOSE EXPORT CONTROLS WHICH WOULD REDUCE AVAILABILITY OF U.S. GRAIN BELOW THE SIX MILLION TONS ANNUAL COMMITMENT. WE ALREADY HOLD TWO ADJUSTMENT RIGHTS UNDER THE PROPOSED AGREEMENT WHICH SHOULD PROTECT US AGAINST ANY CONCEIVABLE CONDITION OF CROP SHORTAGE IN THE U.S. THESE INCLUDE:

(A) OUR RIGHT TO CONTROL GRAIN EXPORTS ABOVE OUR MAXIMUM CONTRACT COMMITMENT OF EIGHT MILLION TONS (INCLUDING THE OPTION) IS ESTABLISHED IN ARTICLE 5-B WHICH REQUIRES CONSULTATION AND USG APPROVAL FOR ANY SUPPLEMENTAL PURCHASE BY THE USSR.

(B) WE CAN FURTHER REDUCE SALES BY SUSPENDING THE TWO MILLION TON OPTION DURING PERIODS OF SERIOUS SHORTAGE UNDER ARTICLE 1. THESE CONTROLS SHOULD FULLY PROTECT THE U.S. AGAINST ABNORMALLY SHORT SUPPLIES DURING THE PERIOD OF THE AGREEMENT.

4. WE RECOGNIZE THE U.S. POLITICAL NECESSITY OF PROVIDING THE RIGHT TO FURTHER RESTRICT GRAIN SALES TO THE USSR BY REDUCTION OF THE SIX MILLION TON COMMITMENT IN THE CASE OF A SERIOUS NATIONAL EMERGENCY. HOWEVER, OUR INSISTENCE ON THIS RIGHT HAS BROUGHT FORTH A DEMAND FROM THE SOVIETS FOR A BALANCING RIGHT TO REDUCE THEIR COMMITMENT. TO RESOLVE THIS ISSUE WE NOW PROPOSE A SOLUTION PROVIDING THAT IN THE MOST UNLIKELY EVENT THE U.S. SHOULD REDUCE GRAIN AVAILABILITY BELOW SIX MILLION TONS UNDER THIS AGREEMENT, THE SOVIETS WOULD HAVE THE "BALANCING" UNILATERAL RIGHT TO TERMINATE THIS AGREEMENT. THIS COULD BE ACCOMPLISHED THROUGH REVISION OF ARTICLE 2 WITH A NEW TEXT AS SUGGESTED IN PARAGRAPH 5.

5. ARTICLE 2. DURING THE TERM OF THIS AGREEMENT, THE GOVERNMENT OF THE UNITED STATES OF AMERICA SHALL NOT EXERCISE ANY DISCRETIONARY AUTHORITY AVAILABLE TO IT UNDER UNITED STATES LAW TO REDUCE EXPORTS OF CORN AND WHEAT PURCHASED FOR SUPPLY TO THE U.S.S.R. IN ACCORDANCE WITH ARTICLE 1; PROVIDED THAT, IF CONTRARY TO THE EXPECTATIONS OF THE PARTIES DURING THE PERIOD THIS AGREEMENT IS IN FORCE, THE GOVERNMENT OF THE UNITED STATES ANNUAL EXPORTS OF CORN AND WHEAT ALLOWED FOR SHIPMENT TO THE SOVIET UNION BELOW SIX MILLION TONS, THE SOVIET UNION MAY UNILATERALLY TERMINATE THIS AGREEMENT BY SO NOTIFYING THE

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GOVERNMENT OF THE UNITED STATES WITHIN THE PERIOD THAT EXPORTS ARE SO REDUCED BY THE UNITED STATES.

6. ALTHOUGH WE HAVE NOT YET DISCUSSED THIS WITH THE SOVIETS, WE ARE HOPEFUL THAT THEY WOULD FIND THIS AN ACCEPTABLE SOLUTION TO THE ESCAPE CLAUSE ISSUE. ITS RESOLUTION ON THIS BASIS WOULD PROVIDE THE FOLLOWING BENEFITS:

(A) IT WOULD ELIMINATE NEED FOR SIDE LETTERS BOTH FROM THE US AND FROM THE USSR DECLARING UNILATERAL RIGHTS TO REDUCE THE SIX MILLION TON COMMITMENT UNDER FORCE MAJEURE CONDITIONS AND DANGER OF UNCLEAR DEFINITION ON THE USSR SIDE.

(B) IT WOULD ELIMINATE NEED FOR ARTICLE 5-A OF THE PRESENT DRAFT WHICH CALLS FOR CONSULTATION IN THE EVENT OF CROP SURPLUS CONDITIONS IN THE USSR WITH THE IMPLICATION THAT WE WOULD AGREE TO SOME REDUCTION IN THEIR PURCHASE COMMITMENT UNDER THESE CONDITIONS.

(C) IT WOULD PRESERVE THE CONCEPT OF A FIRM COMMITMENT ON THE PART OF THE SOVIETS TO PURCHASE A MINIMUM OF SIX MILLION TONS OF GRAIN ANNUALLY, LEAVING OPEN ONLY THE POSSIBILITY OF THEIR TERMINATING THE AGREEMENT IN THE MOST UNLIKELY CASE OF THE USG APPLYING EXTREME GRAIN EXPORT CONTROLS.
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